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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,258	07/31/2003	Maria E. de Leon	19,245	5492

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EXAMINER

HUYNH, KHOA D

ART UNIT PAPER NUMBER

3751

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/632,258

Applicant(s)

DE LEON ET AL.

Examiner

Khoa D. Huynh

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 5-7,9,10 and 20-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,8,11-19,32 and 33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. The drawing (elected Figure 5) is objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the decorative graphic theme is related to the theme of article graphics of a disposable absorbent article must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

2. The disclosure is objected to because of the following informalities: page 15, lines 20 and 26, the terms "Fig. 7" should be changed to read --Fig. 9--.

Appropriate correction is suggested.

***Claim Objections***

3. Claims 1, 32 and 33 are objected to because of the following informalities: all capital letters in the body of the claims should be changed to lower case letters since only the first letter at the beginning of the claim should be capitalized. Appropriate correction is suggested.

***Claim Rejections - 35 USC § 112***

4. Claim 33 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear what limitation applicant intends to cover when claim 33 calls for "the decorative graphic theme is related to the theme of article graphics of a disposable absorbent article". As understood, elected Figure 5 shows "the theme of the decorative graphics 60 is nautical". However, the theme of the article graphics 82 is space. Therefore, it is not clear how the decorative graphic (nautical) theme is related to the (space) theme of article graphics of a disposable absorbent article.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

*(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.*

6. Claim 33, as presently understood, is rejected under 35 U.S.C. 102(b) as being anticipated by Frankel (5375271).

The Frankel reference discloses a disposable mat (10) having a longitudinal direction, a lateral direction and at least one edge (Fig. 1). The mat also includes a first face (16), a second face (12) and a decorative graphic (18) located on the second surface. The decorative graphic has a theme which is the head of an elephant (col. 4, lines 15-19) or an elephant head with bubbles coming out of the elephant's trunk (Fig. 1). Such decorative graphic theme is inherently related to the theme of the article graphics of a known disposable diaper (see cited US 6297424 and US 2005/0015066).

7. Claims 1-3, 8 and 11, as presently understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Brown (4675015).

Regarding claim 1, the Brown reference discloses a disposable article (10) having a longitudinal direction, a lateral direction and at least one edge (Fig. 1). The article includes a first face (the surface not in contact with the skin), a second face (the surface that contact the skin) opposite the first face, at least one line of weakness (about 14) being configured to allow the separation of a

removable portion from the disposable article, and a holding mechanism (13) configured to increase the resistance of the article to movement.

All functional implication and statement of intended use have been fully considered. They, however, are deemed not to impose any structural limitations distinguishable over the Brown article which is capable of being used as a mat if so desired.

Regarding claim 2, the first face includes the plastic layer 25, thus it is liquid impermeable.

Regarding claim 3, as schematically shown in Figure 2, the at least one line of weakness is provided by perforations (20,21).

Regarding claims 8 and 11, the Brown reference also discloses that the at least one line of weakness "may be formed as tear-out square or circle by perforations" (col. 2, lines 34-35). Thus, the at least one line of weakness is curvilinear (formed as circle by perforations).

8. Claims 1 and 3, as presently understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Barker (6174581).

The Barker reference discloses a disposable mat (10) for protecting the floor. The mat has a longitudinal direction, a lateral direction and at least one edge (Fig. 2). The mat includes a first face (16,18), a second opposite face (14), at least one line of weakness (30) being configured to allow the separation of a removable portion from the mat and a holding mechanism (col. 1, lines 59-60)

configured to increase the resistance of the mat movement when placed on a planar surface.

Regarding claim 3, the at least one line of weakness is provided by perforations.

*(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.*

9. Claims 1, 3, 8 and 11, as presently understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Huffman et al. (6763531).

Regarding claim 1, the Huffman et al. reference discloses a disposable apron or mat (10) having a longitudinal direction, a lateral direction and at least one edge (Fig. 1). The article includes a first face (the surface that faces the element 160 in Fig. 2), a second face (the surface that faces element 120 in Fig. 2) opposite the first face, at least one line of weakness (Fig. 1) being configured to allow the separation of a removable portion from the disposable mat, and a holding mechanism (60) configured to increase the resistance of the article to movement..

Regarding claim 3, as schematically shown in Figure 2, the at least one line of weakness is provided by perforations (Fig. 1).

Regarding claim 8, as schematically shown in Figure 1, the at least one line of weakness is curvilinear.

Regarding claim 11, as schematically shown in Figure 1, the mat further includes a mat perimeter, and the at least one line of weakness is shaped such that upon separating the portion from the mat, an opening is formed within said perimeter.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

*(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.*

11. Claim 4, as presently understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown.

Even though the Brown reference does not specifically disclose that the at least one line of weakness is provided by ultrasonic bonds, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Brown reference by using the ultrasonic bonds as a preferred thermal forming process to form the at least one line of weakness, especially since Brown also discloses that the line of weakness can be formed other thermal forming process known (col. 2, lines 10-11).

12. Claim 12, as presently understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Huffman et al.



The Huffman et al. reference DIFFERS in that it does not specifically disclose the opening is at least 22 cm wide as claimed. It, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to employ such width for the opening size since discovering an optimum value for size of an opening involve only routine skill in the art.

13. Claims 13-17 and 32, as presently understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Barker (as discussed above) in view of Yoshiharu (2002165729).

Regarding claim 13, the Barker reference DIFFERS in that it does not specifically include a pair of first reference marks as claimed. Attention, however, is directed to the Yoshiharu reference which discloses a mat for use in urination station. The mat includes a pair of reference marks (3) configured to indicate where the feet of the user should be place when using the urinal. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Barker mat by employing a pair of reference marks, in view of the teaching of Yoshiharu, in order to alert the user where the feet should be place when using the toilet to prevent the waste liquid, i.e. urine from dripping on to the mat.

Regarding claims 14 and 15, the modified Barker reference also DIFFERS in that it does not specifically disclose that the marks locate a first substantially equidistance between 5 and 22 cm as claimed. It, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to

have modified the modified Barker mat by using such equidistance for placing the marks because (a) such location of the marks allows user to be placed in the central location of the toilet, thereby preventing misaim when urinating and (b) discovering an optimum value for the preferred distance between the marks involve only routine skill in the art.

Regarding claims 16 and 17, as schematically shown in Figures 5 of Yoshiharu, the marks come in a set and are substantially similar. The marks are depicted by a pair of foot prints.

Claim 32 is similar to claim 13 and is rejected as discussed above.

14. Claims 18 and 19, as best understood since the claimed limitations are vague and unclear, are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Barker (as discussed above) in view of Tokiko (2002209799).

The modified Barker reference also DIFFERS in that it does not specifically include a decorative graphic as claimed. Attention, however, is directed to the Tokiko reference which discloses another mat for protecting the floor. The mat includes a decorative graphic (Fig. 3). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the modified Barker mat by employing a decorative graphic, in view of the teaching of Tokiko, in order to provide visual stimulation to the user while using the mat. Regarding the limitation "related in theme", the decorative graphic appears to be stars stimulation graphics. Such first set of graphics and the decorative graphic are related in theme since the first set of graphics (foot

prints) tells a young user, i.e. an infant where to stand when potty training and the decorative graphic provides artistic stimulations to the young user when using the toilet.

***Response to Amendment***

15. Applicant's amendment, filed on 02/18/2005, to the pending claims is insufficient to distinguish the claimed invention from the cited prior art or overcome the rejections as discussed above.

***Response to Arguments***

16. Also applicant's arguments filed on 02/28/2005 with respect to the pending claims have been fully considered. However, they are deemed not persuasive.

Applicant asserts that the Frankel reference does not teach a mat including a decorative graphic having a decorative graphic theme where the decorative graphic theme is related to the theme of article graphics of a disposable absorbent article. See remarks section, page 8. The examiner is respectfully traversed.

On the contrary, Frankel does disclose a bath mat having graphics with a decorative theme that is an animal (the elephant head or a spraying elephant head). Such decorative graphics have theme that are related to the graphics on a known, disclosed diaper such as the one described in the US 6297424 (col. 3, lines 55-65; col. 4, lines 39-49) or the one described in the US 2005/0015066 (Fig. 6D). Thus, the Frankel reference does disclose the invention as claimed in claim 33.

Applicant also asserts that the Brown reference does not teach an article that is not capable of being used as a mat and does not include a holding mechanism. See remarks section, pages 8-9. The examiner is respectfully traversed.

Firstly, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In this case, the recitation "the disposable mat" is the statement of intended use and the Brown article is capable of being used as a mat to support a child while he/she is sitting on the floor and preventing the child's buttock from coming into contact with the floor.

And lastly, the adhesive tape 13 of the Brown reference is a holding mechanism configured to increase the resistance of the article movement when the first surface of the article is placed upon a planar surface, i.e. the child's belly. Thus, the Brown reference does disclose the invention as claimed.

Applicant also asserts that the Barker reference does not disclose at least one line a weakness being configured to allow the separation of a removable portion from the mat and a holding mechanism. See remarks section, pages 9-10. The examiner is respectfully traversed.

Firstly, the Barker device does include at least one line of weakness (30) which is torn (or being configured) to allow the separation of a removable portion (the mini attachments between the holes of the perforated seam) from the mat.

And lastly, the taping or adhering of the portion 14 provides a holding mechanism configured to increase the resistance of the article movement when the first surface of the article is placed upon a planar surface, i.e. the side of the toilet bowl stand. Thus, the Barker reference does disclose the invention as claimed.

Applicant also asserts that the Huffman reference does not disclose a holding mechanism. See remarks section, page 11. The examiner is respectfully traversed.

The Huffman fastening mechanisms 60 are configured for holding the article10 at a fixed location. Thus, it is reasonable to construe the mechanisms 60 to be a holding mechanism to increase the resistance of the article movement when the first surface of the article is placed upon a planar surface, i.e. the outer side of the toilet bowl. Thus, the Huffman reference does disclose the invention as claimed.

Applicant also asserts that there is no suggestion or teaching to combine the references to reject the depend claims especially since the primary references do not teach or suggest the claimed limitations of the independent claims. See the Remarks section, pages 11-14. The examiner is respectfully traversed.

As stated supra, each of the cited references, i.e. Brown, Huffman and Barker, does disclose the invention as claimed in the independent claims. Furthermore, the examiner recognizes that references cannot be arbitrarily combined and that there must be some reasons why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. *In re Nomiya*, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the

combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. *In re McLaughlin*, 170 USPQ 209 (CCPA 1971). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. *In re Bozek*, 163 USPQ 545 (CCPA 1969).

In this case, the *prima facie* case of obviousness has been established because (a) the prior art references does suggest the claimed limitations, (b) the combination of references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art, and (c) the combination of references corrects the deficiencies and arrives at the invention at claimed.

### ***Conclusion***

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

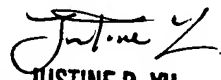
Art Unit: 3751

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (571) 272-4888. The examiner can normally be reached on M-F (7:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HK  
05/12/2005

  
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